



BOXBOROUGH PLANNING BOARD
29 Middle Road, Boxborough, Massachusetts 01719
Phone: (978) 264-1723 • Fax: (978) 264-3127
www.boxborough-ma.gov

John Markiewicz, Chair Eduardo Pontoriero, Clerk Nancy Fillmore Abby Reip Hongbing Tang

Meeting Minutes
July 18, 2016
7:30 PM
Morse-Hilberg Room, Town Hall, 29 Middle Road

Members Present:

John Markiewicz, Chair
Eduardo Pontoriero, Clerk
Nancy Fillmore, Member
Abby Reip, Member
Hongbing Tang, Member
Adam Duchesneau, Town Planner

The Chair called the meeting to order at 7:45 PM.

Correspondence

Mr. Duchesneau indicated the Planning Board had not received any correspondence since their last meeting.

1034 & 1102 Massachusetts Avenue (Lawn Barber, Inc.) – Site Plan Approval Application – Applicant Phaneuf RT (Lawn Barber, Inc.) seeks approval to allow the erection of a free standing hoop house structure, relocation of parking spaces, repositioning of landscape and masonry materials and other storage, and other site improvements

Mr. Markiewicz reopened the public hearing at 7:45 PM. Attorney Lou Levine, Richard Harrington from Stamski and McNary, Inc., and Steve Phaneuf were in attendance to discuss the application with the Planning Board. Mr. Levine indicated the project team has been working with the Town Planner and the Building Inspector to get things in order and bring the site into compliance. He stated he felt some of the items which need to be remedied at the site are outside the scope of the Site Plan Approval process, such as the Building Code and environmental issues at the property. Mr. Levine noted a septic system application was filed last week with the Board of Health. He also indicated all of the remediation work by the Conservation Commission had been completed, including both the cleanup and the new plantings. Mr. Levine stated the Building Inspector still had a number of questions and issues about the structures at the property, and the Applicant's Building Code Consultant, Norton Remmer, was working to address these issues. Mr. Markiewicz noted some of the issues Mr. Levine mentioned actually do relate to the Site Plan Approval process because they relate to the use of the property.

Mr. Harrington presented the most updated Site Plan from July 14, 2016. He noted the landscape plantings which had been added on the eastern edge of the parking area along Route 111/Massachusetts Avenue and indicated a Sewage Disposal Plan had been submitted to the

Nashoba Board of Health. In order to address the maximum Floor Area Ratio (FAR) requirement issue at the property, Mr. Harrington stated they would be framing out the shed at the rear of the lot and a portion of the mezzanine to a lower ceiling height where these areas would not count towards the property's FAR. Mr. Markiewicz asked about the material being stored on the left (east) side of the driveway in front of the office building. Mr. Phaneuf stated this material has been moved back behind the 50 foot front yard setback and Mr. Harrington pointed out a note had been added to the Site Plan which calls for this to occur.

Mr. Harrington continued on to note Parcel X on the Site Plan is under agreement and would be acquired by the Applicant in order to resolve the minimum setback requirement issues of the hoop house structure. Mr. Markiewicz inquired about the timeline for the acquisition of Parcel X. Mr. Levine stated the property has not yet been acquired but Parcel X being transferred to the Applicant/Owner is a proposed condition of the Site Plan Approval. Ms. Tang asked what specifically would be planted around the parking area along Route 111/Massachusetts Avenue as part of the Site Plan Approval. Mr. Duchesneau pointed out this is not indicated on the latest Site Plan, but there is a proposed condition of the Site Plan Approval which would require the Applicant/Owner to work with the Town Planner on the specific species to be planted for screening. Ms. Tang suggested plantings be implemented on both the eastern and western edges of the parking area along Route 111/Massachusetts Avenue for screening purposes. Ms. Tang also asked if there was a Stormwater Management Plan for the property. She noted the adjacent pond is very close to the parking area along Route 111/Massachusetts Avenue and recommended implementing some type of stormwater treatment measures at the property. Mr. Harrington stated they have nothing proposed at this time to treat or prevent stormwater from entering the pond from the parking area. Mr. Phaneuf noted this gravel parking area has been in this location since his business acquired the property at 1034 Massachusetts Avenue. Mr. Levine added this area was already paved or contained impervious material. Mr. Phaneuf stated a check dam has been implemented at the rear of the property. Mr. Markiewicz then asked how the containment and removal of the stone slurry from the property was being handled. Mr. Phaneuf indicated the slurry is collected in a drain within the hoop house building and some of it also flows into chambered tanks outside the hoop house which are pumped out periodically

Mr. Pontoriero inquired about the maximum lot coverage allowed at the property, which was shown to be 72% on the most updated Site Plan. Mr. Harrington explained that this figure is representative of the existing conditions at the property. Mr. Pontoriero then asked if the parking spaces along Route 111/Massachusetts Avenue had enough space to back out and turn around without having to travel into the roadway. Mr. Harrington indicated there is enough space for vehicles parked in this area to turn around without using the roadway. Mr. Pontoriero asked if edges of the parking area along Route 111/Massachusetts Avenue could be formalized with some type of bordering, especially along its southern boundary. Mr. Duchesneau noted this is currently proposed as part of Condition #18 in the Staff Report. Mr. Pontoriero also asked if there is a way to improve or treat the drainage or stormwater runoff which is flowing across the gravel parking area. Mr. Harrington stated they may be able to address this concern, but the project team could not completely confirm this because the property is owned by the abutter. He also pointed out there is a small existing vegetative buffer strip which is already treating some of this stormwater runoff.

The Planning Board then went over the draft conditions in the Staff Report from July 14, 2016, along with the proposed changes to these conditions which Mr. Levine had prepared. In proposed Condition #5, Mr. Markiewicz noted the Applicant was asking for a time extension to complete the task from 90 days to 120 days. Mr. Harrington stated this was because it would be difficult to predict how long the Board of Health approval process would take to complete and then there may need to be updates or an entire replacement of the septic system, which would take time. Mr. Pontoriero asked why, with the additional proposed changes to the condition which allow for the Planning Board to extend the timeframe for compliance, would an additional 30 days be necessary. Other Board members felt this was a double time extension request. Mr. Levine eventually agreed and was comfortable with the original 90 day time limit as long as his proposed additional language was incorporated.

In proposed Condition #7 which called for the Applicant to obtain a new Certificate of Use and Occupancy, Mr. Levine requested the timeframe for compliance be extended from 90 days to 150 days. He indicated there are a number of items which the Applicant needs to address and obtaining this approval in 90 days did not seem feasible. Ms. Fillmore felt the timeframe for compliance should remain as originally proposed and if a time extension is needed, the Applicant should come back before the Planning Board to request one and show good faith progress.

Mr. Levine then indicated the Applicant was not comfortable with Condition #9 which required the Applicant/Owner to pay for a third party Acoustic Consultant to show the business operations were in compliance with the Town's Noise Bylaw in the Zoning Bylaw. Mr. Duchesneau stated he was waiting for a response back from Town Counsel regarding their interpretation of this section of the Zoning Bylaw and felt the discussion of this condition should be tabled until Town Counsel responded. The Planning Board agreed and continued on to discuss the other draft conditions.

Regarding proposed Condition #10, Mr. Levine did not agree with the statement and felt this was purely a Building Code and Board of Health matter to be addressed by entities other than the Planning Board. Mr. Duchesneau indicated he was comfortable removing the proposed condition because it was simply a restatement of Building Code and Board of Health requirements. Ms. Fillmore asked if the business's vehicles were serviced at the subject property or elsewhere, and Mr. Phaneuf stated his company does service vehicles at this location. There was then a discussion regarding the number of parking spaces provided at the property and the number of registered vehicles at this location as laid out in proposed Condition #12. Ms. Tang asked if the Applicant was required to provide any handicap parking spaces as part of their Site Plan Approval and Mr. Duchesneau stated he would look into the details of this requirement further.

Mr. Levine requested the language "sound reduction insulation measures" be removed from proposed Condition #14 because he felt this was more of a Building Code issue than a Site Plan Approval item. Mr. Markiewicz asked Mr. Duchesneau to follow up with the Police Chief regarding the Occupational Safety and Health Administration (OSHA) report which was supposed to be issued after they had visited the subject property. Mr. Markiewicz wanted to know if a report could be requested and when it might be able to be provided. Ms. Tang noted the purpose of the landscaping around the parking area along Route 111/Massachusetts Avenue was to help the parking spaces fit into the character of the Town and to help with the treatment of

stormwater runoff as it flows into the adjacent pond. At this time Mr. Markiewicz opened up the hearing to comments from the public.

Mark White of 93 Sara's Way noted a number of waivers were requested for the application and he wanted to know where the Planning Board stood on granting these requested waivers. He also questioned the repairing of vehicles inside of the garage building and asked if this was a permitted use at the property. Mark White also noted the Applicant had been requested to provide a list of all of the uses which occur at the property several weeks ago and nothing had been submitted. Mr. Phaneuf indicated stone cutting, material storage, auto repair, office space, and equipment storage all occur at the subject property. Mr. Markiewicz asked what type of auto repair activities occur at the property and Mr. Phaneuf stated oil changes, brake repairs, and other maintenance. Mr. Levine added the business is not repairing any third party vehicles and the only vehicles which are being repaired are those which are part of the Applicant's business.

Mark White noted there had been substantial conversation about the impacts to Route 111/Massachusetts Avenue regarding this application, but he felt there had been no talk of the abutter's concerns. He wanted to know how the hoop house building was in harmony with other structures in the area and how adequate buffering had been provided for the neighbors. Mark White felt that when he had constructed his buildings nearby, there was a much more detailed review process by Town boards and departments. Mark White also felt moving the garage door on the hoop house to the opposite side of the building would help to accommodate the concerns of the abutters. He also wanted to know who would be monitoring the number of employees and the number of vehicles which would be at the property. Lastly, Mark White felt the parking and unloading along Route 111/Massachusetts Avenue needed further discussion.

Larry White of 71 Sara's Way asked the Planning Board if this particular use at the property was somehow exempt from the Zoning Bylaw and Mr. Markiewicz stated the Board was not suggesting that in any way. Larry White then cited Section 4200 of the Zoning Bylaw and claimed the application also needed a Special Permit from the Zoning Board of Appeals. He continued on to state it seemed this process was trying to place a square peg in a round hole as evidenced by the proposal to lower shed roofs to meet FAR requirements and simply trying to cram this application through the planning process in general. Mr. Markiewicz stated the Planning Board is trying to pull together an approved Site Plan for the property which meets the requirements of the Zoning Bylaw. Larry White stated he felt the abutters on Sara's Way were being penalized for needing a Special Permit to create the roadway on which their houses are now constructed. He then suggested the Applicant be required to remove the structure in its entirety and start the application process all over again.

Larry White stated the topography in this area created an amphitheater-like setting with a noisy business at the bottom. He suggested the Applicant could use hook lifts, have the stones delivered in wooden boxes, or put down plywood to soften the noise of the rocks dropping onto the asphalt in order to make the stone deliveries more quiet. He also suggested the hoop house building could be turned around to point in the other direction. Larry White stated he felt the Planning Board was setting a bad precedent with this application process and felt applicants could now move forward with illegal construction and back into favorable approvals from the Board. He felt the Applicant was a consistent liar and that the Planning Board was buying

everything he stated. Larry White felt the Planning Board should be verifying some of the comments and statements made by the Applicant. He continued on to note he felt there had been no screening provided to the abutters and he had been through quite a bit during the entire process. Lastly, Larry White stated the Building Inspector had told him a building such as the hoop house structure could not be erected.

Mr. Markiewicz asked the Applicant if there was any way they could put up some type of screening. Mr. Phaneuf stated when his business moved into the property there were no houses behind the business and he now felt invaded. At one time there was talk of putting up an earthen berm with evergreens, but now his relationship with the neighbors is broken and he does not want to work with Larry White. Mr. Levine pointed out the use of the property is not a nonconforming use. Mr. Phaneuf stated there are structural engineers analyzing the hoop house building to ensure it meets Building Code specifications.

Larry White stated he felt if the Applicant is able to obtain another piece of land, he should conduct the entire process the right way and he did not feel the abutters were asking for a lot in this regard. Larry White also claimed the Applicant did not keep the doors closed when the stone cutting was occurring in the hoop house.

Kathy Vorce of 555 Liberty Square Road noted the Applicant's Building Code Consultant's report calls the hoop house building "unconventional" and states how certain modifications need to be made to bring the building up to code. Ms. Vorce felt the building was a bad fit for the neighborhood and she stated how Site Plan Approval is required for the hoop house building because there was a change. Ms. Vorce indicated she felt the Planning Board should listen to the requests of the Whites. Ms. Vorce also stated she felt there were no grandfathered parking spaces at the subject site. She continued on to indicate she felt that if an area is going to be used in a substantially different way, then it should be looked at in a holistic manner with the Site Plan. Ms. Vorce felt the buffering of the parking spaces along Route 111/Massachusetts Avenue was needed for safety and aesthetics. She also pointed out Mr. Levine stated sound is not an aspect of zoning. However, Ms. Vorce felt this particular use of the property and the noise which it emits could be detrimental to the surrounding area, and therefore Ms. Vorce felt the location of the business was not appropriate for the particular use.

Mark White asked if only abutters within 300 feet of the subject property could appeal a decision of the Building Inspector. Mr. Duchesneau indicated that was correct based upon the information he had received from Town Counsel.

Lonnie Weil of 350 Burroughs Road requested additional information regarding the layout of the hoop house building. Mr. Phaneuf explained how the hoop house contains stone cutting saws and a pitched floor which channels water into a floor drain and then into a chamber drainage system to address the slurry. Mr. Phaneuf continued on to note the slurry chambers were pumped out periodically. Mr. Duchesneau asked that an updated description of how the slurry is being removed from the site be submitted to the Planning Office or Building Department as soon as possible. Mr. Phaneuf continued on to note they have eight stone cutters and splitters at the site, along with a 7,000 square foot garage.

Mark White requested the garage door on the hoop house be moved to the other side of the building and the hoop house be insulated for sound. He also asked for the architectural style of the building to be improved and noted the Applicant should not have been able to construct the building in the first place.

Pascale Belin-White of 93 Sara's Way stated she felt the hoop house building was simply a tent where manufacturing was occurring. She noted the building was originally intended to simply be used for storage. She added the hoop house building is just a vinyl tent and as abutters they are subject to the noise which comes out of this structure. Ms. Belin-White indicated they have not complained in the past about the business and they do not want to continue to complain, but they are being put in a difficult position.

Mr. Pontoriero asked for clarification on the Site Plan Approval process and Mr. Duchesneau informed him what was within the Planning Board's purview. Mr. Markiewicz asked the Applicant to please look into mitigating the sound which is being emitted from the hoop house via some type of screening or insulation. He also wondered if either party (the Applicant or the abutters) could do anything to help mitigate the sound being emitted.

Mr. Markiewicz MADE a MOTION to continue the public hearing to the Planning Board's meeting on Monday, August 1, 2016 at 7:45 PM. Ms. Reip SECONDED the MOTION. All members voted in favor.

1300 Massachusetts Avenue – Site Plan Approval Major Modification Application – Applicant Omni Navitas Holdings LLC seeks approval to allow for the installation of four (4) rows of solar carport canopies and associated equipment in the parking lot area located to the south of the existing building on-site

Mr. Markiewicz opened the public hearing at 9:54 PM and read the legal notice into the record. John McDonough from Omni Navitas Holdings LLC and Richard McCarthy from Industria Engineering, Inc. were in attendance to discuss the application with the Planning Board. Mr. McCarthy noted Massachusetts has an incentive program for the creation of solar arrays over parking lots, which is why they are looking to construct this project at the subject property.

Mr. Pontoriero asked if the solar carport panels would be angled inwards or outwards where the rows are double stacked with arrays. Mr. McCarthy indicated the panels would be angled inwards, but the panels on the outer rows would be angled outwards. Mr. McCarthy then distributed an updated Site Plan for the property. He noted the equipment pad for the solar carports has been revised from what is shown in the original plan set to only be approximately 450 square feet. Additionally, to address the new impervious surface at the property which would be added due to the equipment pad, the end of the truck turnaround area would be replaced with pervious stone. Mr. McCarthy also stated the Applicant is requesting to have proposed Condition #5 removed from their decision because by addressing the impervious area issue they would no longer need to go before the Zoning Board of Appeals. The Planning Board agreed this proposed condition should be removed.

Mr. Markiewicz asked if people would be able to see the solar carports from Route 111/Massachusetts Avenue. Mr. McCarthy stated the carports would be well screened from

Route 111/Massachusetts Avenue by the existing building and vegetation at the property. Ms. Fillmore asked if the project's transformer would make any noise. Mr. McCarthy stated it would be about 58 decibels from 10-12 feet away and then would go down as you get further away from the transformer. He noted this was approximately the same noise level as a running dishwasher. Mr. McCarthy also added the transformer would only make noise when the sun was shining and the panels were generating energy.

Ms. Reip asked if the lighting under the solar carports would be automatic. Mr. McCarthy indicated it would be and the lights would all go on and off at the same time. Ms. Fillmore asked if there was some type of emergency at the property, who should be called. Mr. McCarthy stated, as required by law, there would be signage at the property indicating who to contact in the case of an emergency. Mr. Markiewicz asked what the construction timeline for the project would be and Mr. McCarthy stated they are hoping to have the solar carports erected by the end of the year. Ms. Reip asked if any excess energy would be generated from the panels. Mr. McCarthy stated Massachusetts state law indicates that if you sell your extra power elsewhere, as a local municipal power company, you will lose your monopoly. He continued on to note they are required to sell their extra power to the Littleton Electric Light Department. Mr. Pontoriero asked what the life expectancy is for the components of the project and Mr. McCarthy indicated it varies from approximately 15 to 25 years depending upon each particular piece of equipment.

Mr. Duchesneau stated he would add a condition to the decision requiring the Applicant/Owner to submit a revised Site Plan (Figure 3) and Equipment Pad Detail (Figure 6) which are consistent with the Preliminary Site Plan (Figure 2) prepared by Industria Engineering, Inc. which was submitted at the public hearing, prior to the issuance of a Building Permit. There was then discussion regarding snow plowing around the poles which would support the solar carports. Mr. Markiewicz asked who owned the panels and Mr. McCarthy indicated Omni Navitas Holdings LLC would own them. Ms. Tang asked if the panels were interconnected to one another. Mr. McCarthy stated the panels are built in tables and therefore they are only connected to one another at certain points.

Mr. Markiewicz MADE a MOTION to approved the requested Site Plan Approval Major Modification to allow for the installation of four (4) rows of solar carport canopies and associated equipment in the parking lot area located to the south of the existing building on-site at 1300 Massachusetts Avenue and to allow the Planning Board Chair, the Planning Board Clerk, or the Town Planner to sign the decision on behalf of the Planning Board. Ms. Fillmore SECONDED the MOTION. All members voted in favor.

With no further business, the meeting was adjourned at 10:30 PM on a MOTION by Mr. Markiewicz, SECONDED by Mr. Pontoriero, with all members voting in favor.

On Behalf of the Boxborough Planning Board:



Eduardo Pontoriero, Clerk